

ORIGINAL

BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

In the Matter of)
)
USA Digital Radio Partners, L.P.)
)
Petition for Rulemaking to Amend Part) RM-9395
73 of the Commission's Rules to Permit)
the Introduction of Digital Audio)
Broadcasting in the AM and FM Bands)

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COMMENTS OF BONNEVILLE INTERNATIONAL CORPORATION

Bonneville International Corporation ("BIC"), by its attorneys, hereby submits its comments on the above-captioned Petition for Rulemaking submitted by USA Digital Radio Partners, L.P ("USA Digital").¹

BIC supports the expedited release of a *Notice of Proposed Rulemaking* in response to USA Digital's proposal to create a new digital radio service for the AM and FM frequency bands. Such a service will permit terrestrial radio broadcasters to compete effectively in an increasingly crowded marketplace by offering consumers the benefits of digital technology.

As the Commission has noted with respect to DTV:

Digital technology holds great promise. It allows delivery of brilliant, high-definition, multiple digital-quality programs, and ancillary and supplementary services such as data transfer. . . Broadcasters have long recognized that they must make the switch to digital technology. . . Because of the advantages to the American public of digital technology - - both in terms of services and in terms of efficient spectrum management - - our rules must strengthen, not hamper, the possibilities for broadcast DTV's success.²

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¹ BIC is the operator of 4 AM and 11 FM radio stations licensed to its affiliate Bonneville Holding Company.

² *Advanced Television Systems and Their Impact Upon The Existing Television Broadcast Service (Fifth Report and Order)*, 12 FCC Rcd 12809, 12811 (1997).

Furthermore, the Commission has long recognized that the digital revolution encompasses audio as well:

During the last decade, commercialization of digital technology has brought the American consumer many choices for higher quality audio service. For example, we have witnessed the introduction of the compact disc (CD), digital audio tape, and the digital compact cassette. In the case of the CD in particular, we have seen rapid consumer acceptance and market penetration lead to the near demise of analog records. In addition, digital audio subscription services are now available for direct delivery to the home by cable. . . It is apparent that digital audio media are developing rapidly and that the increased quality they offer is gaining acceptance by consumers.³

Simply stated, it is apparent that consumers place a high value on digital-quality audio, and that the radio broadcasting industry should be permitted to offer digital technology to its audience.

Providing radio broadcasters with near-term entry into the digital environment will enhance their competitive viability and enable them to provide better service to the public. For instance, the improved sound fidelity produced by digital audio will allow FM stations to provide virtually the same CD-quality sound which is now standard within the recording industry. AM stations, in turn, will be able to offer sound quality equivalent to that offered by analog FM stations. Moreover, digital transmissions will enhance signal "robustness." Enhanced signal robustness will translate into (1) greater immunity to impairments such as multipath and noise; (2) additional resistance to natural and man-made obstructions; and (3) improved reception at the edge of signal coverage. Overall, consumers will enjoy a new

³ *Amendment of the Commission's Rules With Regard To the Establishment and Regulation of New Digital Audio Radio Services*, 7 FCC Rcd 7776, 7778 (1993); see also Sheron, "Media Mergers Expected to Slow in 1998," *San Antonio Express-News* (Jan. 14, 1998) ("What [digital radio] means for the consumer is CD-quality sound, zero interference and the possibility to receive data that can be printed out.").

listening experience which will enhance the attractiveness of local AM and FM stations, which in turn will enable broadcasters to preserve the critical local news, information and public affairs programming which lies at the very heart of the nation's broadcasting system.

BIC further submits that the advent of satellite-delivered digital audio radio services (DARS) suggests that expedited treatment of the matters raised in USA Digital's Petition is appropriate. The first satellite-delivered DARS service is expected to launch during the year 2000, when CD Radio, Inc. begins delivering 100 digital channels of music, news and talk radio to motorists.⁴ These services will compete directly with local broadcast stations for audiences in virtually every market in the United States. The Commission has already acknowledged that satellite-delivered DARS could have a significant adverse effect on the competitive viability of local analog radio service:

There is uncertainty inherent in any attempt to predict the impact of satellite DARS on the terrestrial radio industry. The technologies, structure, and regulation of the communications industry are changing dramatically. Developments in the next decade may significantly change the market for both satellite DARS and terrestrial broadcasting. . . [W]e cannot entirely rule out the possibility of a major adverse impact. *We emphasize that we remain committed to supporting a vibrant and vital terrestrial radio service for the public.*⁵

Clearly, the Commission's interest in preserving a "vibrant and vital terrestrial radio service" (and the unique local news and public affairs programming it provides) will be disserved by any regulatory scheme that gives satellite-delivered DARS a substantial head start in the

⁴ Abrahms, "Satellites Will Allow National Radio Stations," *The Washington Times* (December 10, 1998).

⁵ *Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, 12 FCC Rcd 5754, 5769 (1997) (emphasis added).

market for digital audio services. Expedited treatment of the USA Digital Petition will enable the Commission to prevent that result.

Furthermore, the adoption of new digital rules for the AM and FM bands would place the United States in a position of greater parity with other countries that have made substantial progress in the field of digital audio broadcasting (“DAB”) over the past several years. Accordingly, for the reasons set forth in USA Digital’s Petition, BIC believes that it is now appropriate for the Commission to take the necessary actions to allow AM and FM radio stations to take full advantage of digital technology, subject to whatever rules are required to assure interference protection during the proposed transition from analog to digital.

In a similar vein, BIC believes that any new rules adopted in connection with USA Digital’s Petition should facilitate a smooth transition of the radio broadcasting industry to digital without putting existing analog operations at risk. To that end, BIC recommends that the Commission adopt one In-Band, On-Channel (“IBOC”) system for the FM band and one IBOC system for the AM band, and mandate that each system be used universally in each band. The Commission’s prior experience with AM stereo reflects that a more open-ended approach will delay rather than expedite the introduction of digital radio technology in local markets.⁶ In addition, a unified terrestrial DAB standard is necessary to provide consumers and equipment manufacturers with the certainty required to encourage marketplace acceptance of digital audio service, and is essential if the Commission is to maintain

⁶ See, e.g., Remarks of Commissioner Susan Ness before the Washington Area Broadcasters Association, Washington, D.C., 1996 LEXIS 5407, *3 (Sept. 27, 1996) (“Failure to adopt a single standard for [DTV] broadcast transmission will lead to confusion in the marketplace - - as it did for AM Stereo - - resulting in significant delay and disruption in the transition from analog to digital.”).

continued portability of receivers and universal reception of digital audio broadcasts. Absent these factors, local radio broadcasters will have little incentive to implement digital technology as quickly as possible, thereby delaying full scale introduction of terrestrial digital audio service for an extended period of time.

Moreover, as reflected in the USA Digital Petition, the adoption of IBOC technology as the terrestrial DAB standard will enable consumers and broadcasters to upgrade to digital as part of the normal cycle of equipment replacement, without forcing local radio stations to change their dial position. Regulatory burdens will be minimized, since no new frequency allocations or licenses are necessary to implement USA Digital's proposal. Disruptions to local service also should be minimal: stations will continue to provide service to listeners with analog receivers during the proposed 12-year analog-to-digital transition period, and new terrestrial digital receivers will not be significantly more expensive than today's analog receivers. In other words, unlike what is expected to be the case with respect to DTV, the proposed transition of terrestrial radio broadcasting to digital will be relatively transparent to consumers.

BIC also recommends that the Commission adopt a mandatory timetable under which AM and FM broadcasters must complete the transition from analog to digital by a date certain and cease broadcasting in the analog mode once the transition is complete. As in the case of DTV, this type of timetable will lend certainty to the introduction of digital radio service by making it clear to the public that analog radio service will indeed cease on a date

certain, while providing broadcasters and manufacturers with a defined planning horizon that will help them develop sensible business plans for the digital environment.⁷

Finally, the introduction of IBOC will further complicate the very complex interference environment which currently exists in both the AM and FM bands. Thus, any rules proposed by the Commission in this matter should include amendments to Part 73 that establish clear and efficient procedures to protect existing AM and FM broadcasting stations from any increased interference during the analog-to-digital transition period. At a minimum, those procedures must strike an appropriate balance between protecting analog broadcast service and facilitating a timely introduction of digital audio service into local markets.

In sum, BIC believes that the USA Digital Petition represents a substantial first step towards full and fair competition in the market for digital audio service, and that immediate action on this matter will serve the public interest. Accordingly, for the reasons set forth

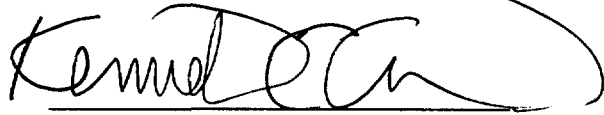
⁷ See *Advanced Television Systems and Their Impact Upon The Existing Television Broadcast Service (Reconsideration of the Fifth Report and Order)*, MM Docket No. 87-268, FCC 98-23, at ¶ 79 (1998).

above, Bonneville International Corporation requests that the Commission issue a *Notice of Proposed Rulemaking* in the above-captioned proceeding in accordance with these comments.

Respectfully submitted,

BONNEVILLE INTERNATIONAL CORPORATION

By:

A handwritten signature in black ink, appearing to read "Kenneth E. Satten", written over a horizontal line.

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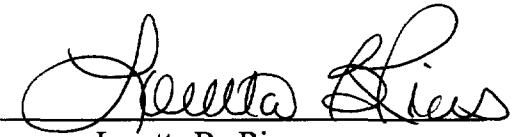
Its Attorneys

Dated: December 22, 1998

CERTIFICATE OF SERVICE

I, Loretta B. Rias, hereby certify that on this 22nd day of December, 1998, I caused copies of the foregoing Comments of Bonneville International Corporation to be served via first-class mail on the following:

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